

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 2ND JANUARY 2007 / 12TH POUSHA, 1928

WP(C).No. 73 of 2007(H)

PETITIONER:

N.J.STEPHEN, MEMBER,
NEDIYANGA SERVICE CO-OPERATIVE BANK LTD.NO.LL 84,
NHAROLICAL, SREEKANDAPURAM, KANNUR DISTRICT.

BY ADV. SRI.GEORGE POONTHOTTAM

RESPONDENTS:

1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY TO GOVERNMENT,
DEPARTMENT OF CO-OPERATION,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.
2. THE JOINT REGISTRAR OF CO-OPERATIVE
SOCIETIES (G), KANNUR.
3. NEDIYANGA SERVICE CO-OPERATIVE BANK
LTD.NO.LL 84, NHAROLICAL, SREEKANDAPURAM,
KANNUR DISTRICT, REPRESENTED BY THE SECRETARY.

BY SENIOR GOVT. PLEADER SRI.P.N.SANTHOSH.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION
ON 02/01/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

K.PADMANABHAN NAIR, J.

W.P.(C) No.22013 of 2007

Dated this the 5th December, 2007.

J U D G M E N T

I do not think it is necessary to consider the rival contentions raised by both sides in this matter, in view of the decision of the learned Single Judge, reported in **Annie Varghese & another v. State of Kerala & others** (2007 (3) KLT 431). Hence, no further orders are necessary in this writ petition, so far as the petitioners are concerned.

2. But, according to the Government, subsequently an auction was conducted. So, that auction has to be set aside. While setting aside the auction, it is only just and proper that the Government is directed to refund an amount of Rs.1,60,000/=, deposited by the auction purchaser, on 9.7.2007, back to the 6th respondent, as expeditiously as possible, at any rate, within a period of one month from the date of receipt of a copy of this judgment. The amount is to be refunded by the 5th respondent, General Manager, District Industries Centre, Pathanamthitta, on production of the same, either to the 6th respondent, or to the Government Pleader. It is made

clear that in case there is any failure to refund the amount, within the time granted by this Court, 6th respondent is entitled to recover that amount with 12% interest from 5th respondent, by executing this judgment itself, as if it is a decree passed by competent civil court.

In the result, the writ petition is disposed of in the following manner. The auction of the property by the 5th respondent is cancelled. There will be a direction to the 5th respondent, General Manager, District Industries Centre, refund the amount deposited by the 6th respondent, auction purchaser, as expeditiously as possible, at any rate, within one month from the date of receipt of a copy of this judgment. In case, there is any failure to refund the amount within the time granted, it is open to the 6th respondent to recover the same with 12% interest from the date of deposit till the date of recovery, by executing the order, as if it is a decree passed by the competent civil court.

**K.PADMANABHAN NAIR,
JUDGE**

nj.